

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division

## Incorporation by Reference - 2002

(LAC 33:I.3931; III.111, 507, 2160, 3003, 5116, 5122, 5311, and 5901; V.Chapter 30.Appendices A-L; IX.2301, 2531, and 2533; and XV.1517) (OS047\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3931; III.111, 507, 2160, 3003, 5116, 5122, 5311, and 5901; V.Chapter 30.Appendices A-L; IX.2301, 2531, and 2533; and XV.1517 (Log #OS047\*).

This proposed rule is identical to federal regulations found in 10 CFR 71, Appendix A, January 1, 2002; 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a), 117.3, 136, 266, Appendices I-IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2002; and 67 FR 58997, September 19, 2002 and 67 FR 64260 – 64268, October 17, 2002, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This proposed rule incorporates by reference into LAC 33:I, III, V, IX, and XV the corresponding regulations in 10 CFR 71, Appendix A, January 1, 2002; 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a), 117.3, 136, 266, Appendices I-IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2002; and amendments to Part 420 in 67 FR 58997, September 19, 2002 and Part 430 in 67 FR 64260 – 64268, October 17, 2002. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this proposed rule are to mirror the federal regulations in order to maintain equivalency.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 24, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810.

Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS047\*. Such comments must be received no later than April 24, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0389 or by e-mail to [lynnw@deq.state.la.us](mailto:lynnw@deq.state.la.us). The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS047\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 2. Notification**

**Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

**Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges**

**§3931. Reportable Quantity List for Pollutants**

A. ...

1. 40 CFR 117.3, July 1, 2002, (7-1-01 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4, July 1, 2002: (7-1-01 Edition)

a. Table 302.4—List of Hazardous Substances and Reportable Quantities; and

b. Appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. – Note @. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025.J, 2060.H, 2076.D, 2183.I, 2194.C, 2204.A, and 2373.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:\*\*.

**Part III. Air**

**Chapter 5. Permit Procedures**

**§507. Part 70 Operating Permits Program**

A. — B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The ~~Louisiana Department of Environmental Quality~~ department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), ~~as in effect on~~ July 1, 2004~~2~~. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. — J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:\*\*.

## **Chapter 21. Control of Emission of Organic Compounds**

### **Subchapter N. Method 43—Capture Efficiency Test Procedures**

#### **§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, ~~as amended~~ July 1, 2000~~2~~, are hereby incorporated by reference.

B. — C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:\*\*.

## Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

### Subchapter A. Incorporation by Reference (IBR)

#### §3003. IBR 40 *Code of Federal Regulations* (CFR) Part 60

A. Except as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, as ~~revised~~ July 1, 2001<sup>2</sup>, are hereby incorporated by reference as they apply to the state of Louisiana.

B. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29: (March 2003), LR 29:\*\*.

## Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

### Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

#### §5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, ~~dated~~ July 1, 2001<sup>2</sup>, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the ~~S~~state of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix C]	

B.- C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:\*\*.

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, ~~dated July 1, 2004~~<sup>2</sup>, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. ~~Also incorporated by reference is EPA rule entitled “National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j),” promulgated on April 5, 2002, in the *Federal Register*, 57 FR 16595-16611.~~

B. – C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:\*\*.

**Chapter 53. Area Sources of Toxic Air Pollutants**

**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, ~~dated July 1, 2004~~<sup>2</sup>, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – M]	
Subpart N	<u>National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks</u>
Subpart O	<u>Ethylene Oxide Emissions Standards for Sterilization Facilities</u>
Subpart T	<u>National Emission Standards for Halogenated Solvent Cleaning</u>
* * *	
[See Prior Text in Subpart X]	
Subpart LLL	<u>National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry</u>
Subpart VVV	<u>National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works</u>
Subpart EEE	<u>National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors</u>

B. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:\*\*.

## **Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

### **Subchapter A. General Provisions**

#### **§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, (July 1, 2000~~2~~).

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:\*\*.

## **Part V. Hazardous Waste and Hazardous Materials**

### **Subpart 1. Department of Environmental Quality—Hazardous Waste**

#### **Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

#### **Appendices**

##### **Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals**

A. 40 CFR 266, Appendix I, July 1, 2004~~2~~, is hereby incorporated by reference.

##### **Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine**

A. 40 CFR 266, Appendix II, July 1, 2004~~2~~, is hereby incorporated by reference.

##### **Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride**

A. 40 CFR 266, Appendix III, July 1, 2004~~2~~, is hereby incorporated by reference.

##### **Appendix D. Reference Air Concentrations**

A. 40 CFR 266, Appendix IV, July 1, 2004~~2~~, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and Appendix E of this Chapter, respectively.

##### **Appendix E. Risk Specific Doses (10<sup>-5</sup>)**

A. 40 CFR 266, Appendix V, July 1, 2004~~2~~, is hereby incorporated by reference.

**Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]**

A. 40 CFR 266, Appendix VI, July 1, 2004~~2~~, is hereby incorporated by reference.

**Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues**

A. 40 CFR 266, Appendix VII, July 1, 2004~~2~~, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

**Appendix H. Organic Compounds for Which Residues Must be Analyzed**

A. 40 CFR 266, Appendix VIII, July 1, 2004~~2~~, is hereby incorporated by reference.

**Appendix I. Methods Manual for Compliance with the BIF Regulations**

A. 40 CFR 266, Appendix IX, July 1, 2004~~2~~, is hereby incorporated by reference, except as follows.

A.1. – 3. ...

4. ~~Repealed. Equation (7) of Appendix A to 40 CFR 266, Appendix IX shall be corrected to read:~~

$$\sigma_t = \left( \frac{(n_1 - 1)S_1^2 + (n_2 - 1)S_2^2}{n_1 + n_2 - 2} \right)^{1/2}$$

B. ...

**Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, Appendix XI, July 1, 2004~~2~~, is hereby incorporated by reference.

**Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces**

A. 40 CFR 266, Appendix XII, July 1, 2004~~2~~, is hereby incorporated by reference, except that the footnote should be deleted.

**Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units**

A. 40 CFR 266, Appendix XIII, July 1, 2004~~2~~, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

## Part IX. Water Quality

### Chapter 23. The LPDES Program

#### Subchapter A. Definitions and General Program Requirements

##### §2301. General Conditions

A - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (~~e.g., 40 CFR 122.29~~) shall refer to those regulations published in the July 1, 2001~~2~~ *Code of Federal Regulations* CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:\*\*.

#### Subchapter N. Incorporation by Reference

~~The Louisiana Department of Environmental Quality incorporates by reference the following federal requirements:~~

##### §2531. 40 CFR Part 136

A. Title 40 (~~Protection of the Environment~~) *Code of Federal Regulations* (CFR), Part 136, July 1, 2002, Guidelines Establishing Test Procedures for the Analysis of Pollutants, ~~revised July 1, 2001~~, is hereby incorporated by reference in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:\*\*.

##### §2533. 40 CFR Chapter I, Subchapter N

A. Title 40 (~~Protection of the Environment~~) CFR, Chapter I, Subchapter N, (~~Effluent Guidelines and Standards~~), ~~revised July 1, 2001~~, Parts 401 and ~~parts~~ 405 – 471, July 1, 2002, and amendments to Part 420 in 67 FR 58997, September 19, 2002 and Part 430 in 67 FR 64260-64268, October 17, 2002, are hereby incorporated by reference in their entirety. (~~Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of subchapter N have been included in these regulations as Subchapter T.~~)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958

(August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:\*\*.

## **Part XV. Radiation Protection**

### **Chapter 15. Transportation of Radioactive Material**

#### **§1517. Incorporation by Reference**

A. The department incorporates by reference 10 CFR Part 71, Appendix A, ~~(July~~ January 1, 2004~~2~~).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:\*\*.